

Remarks

Claims 1-5 were pending in the application. Claim 1 was amended for clarification. New claims 6-20 have been added. Therefore, claims 1-20 are currently pending in the application. Reconsideration is respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 1, 3 and 4 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jensen. This rejection is respectfully traversed.

Jensen discloses a storage and assorting net for fish. Specifically, Jensen discloses a single draw-string at opposite side ends of the storage net and draw-strings disposed on a top end of the storage net. However, Applicant's invention is drawn toward a second netting arranged at each end of the fish bag with more than 1 purse line at each end.

Specifically, Applicant's claim 1 recites, "[d]evice for storing and transporting live fish, comprising a fish bag being equipped at both ends with bag rings, and wherein at each end there being arranged a second netting with purse lines."

In the Office action, the Examiner states with regard to claim 1 and Jensen, "wherein at each end there being arranged a second netting with purse lines (5 and 8). Office action, at 2. It is seen in Fig. 1 of Jensen that draw-string 5 is at one end while draw-string 8 is at another end, thus there is merely a single draw-string at each end of the Jensen device. In contrast, Applicant's claim 1 is drawn toward purse-lines (emphasis added) at each end of the fish bag.

Netting bags for storing live fish are in use over large parts of the world. Large risks may be associated with transport of fish with netting devices of the prior art, including Jensen. In the netting device of the prior art,

successful transport of fish is dependent upon the speed of the tow and how fast the fish are able to swim themselves inside the device and across the distances over which towing is to be performed. In the prior art, it appears that the through-flow of water in the net is not taken into account during transport. Therefore, if the towing is performed at a greater speed than the fish themselves are able to swim, the fish will likely collect at the rear of the storage bag in a tight mass and die within a short period on account of a shortage of oxygen.

In contrast, in Applicant's invention "through ...purse lines 5,6... it will be possible to determine and regulate the through-flow of water in the fish bag 1." Applicant's specification, at page 4, lines 22-26. "The purpose of the present invention is to provide a device being suited for storage and transport of live fish for transport velocities far exceeding (10-20 knots) what the fish would endure outside the device, but without it disparaging the environment." Applicant's specification, at page 3, lines 19-23.

Jensen fails to teach or suggest purse-lines at each end of the fish bag and thus fails to provide an advantage of the claimed invention. Therefore, for at least this reason Applicant respectfully submits that Jensen fails to anticipate or suggest claim 1.

As claims 2-6 depend from claim 1, Applicant submits that the rejections to these claims should be withdrawn for at least the same reason as claim 1.

Rejections Under 35 U.S.C. § 103

Claims 2 and 4 were rejected under 35 U.S.C. § 103(a). Claim 2 was rejected over Jensen and claim 4 was rejected over Jensen in further view of Salmon. For reasons provided below, Applicant submits that it appears that the

Examiner intended to reject claim 5 instead of claim 4. The rejections to the claims are respectfully traversed.

For at least the reasons provided above with regard to claim 1, Applicant submits that claims 2 and 5 are not taught or suggested by Jensen.

Furthermore, with regard to claim 2, the Examiner states, "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device with a plurality of fish bags coupled together, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art." Office action, at 3.

In response, Applicant submits that locking rings, recited in claim 2, are used to couple together the fish bags and locking rings are not taught or suggested in Jensen. Therefore, for at least this reason, Applicant submits that claim 2 is not obvious in view of Jensen.

With regard to claim 4, Applicant submits that it appears the Examiner made an inadvertent error and intended to refer to claim 5 instead of claim. The Examiner states, with regard to claim 4, that a first netting over the fish bag is not disclosed in Jensen. However, claim 4 recites the element of a brace and was previously rejected under 35 U.S.C. § 102. Applicant's claim 5 recites, "[d]evice for transporting and storing live fish according to claim 1, wherein around the fish bag there is located a first netting." Therefore, Applicant will assume that Examiner intended to reject claim 5 under 35 U.S.C. § 103 instead of claim 4.

In rejecting claim 5, the Examiner states "it would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device of Jensen with the netting of Salmon to create a more secure means to tow the bag." Office action, at 3.

Applicant respectfully submits that there is no motivation to combine the Jensen and Salmon cited references.

Salmon discloses a container for liquids such as freshwater and was not concerned with the transfer of live fish. This is made apparent by at least the fact that a large number of fish enclosed in the container being closed at both ends would likely die within a few minutes on account of a shortage of oxygen and the formation of ammonia. The container would not fulfill the requirement for oxygen by live fish during rapid towing over long distances. Thus, the container would not perform in transporting large amounts of fish.

In contrast, Jensen was concerned with the storing of fish. Therefore, Jensen and Salmon are cited prior art in non-analogous fields. Thus, there is no motivation to combine them. Accordingly for at least these reasons, Jensen, either alone or in combination with Salmon, fails to teach or suggest the claimed invention.

Therefore, Applicant submits that the rejections to claims 2 and 5 should be withdrawn for at least the reasons provided above.

Claims 6-20

Applicant respectfully submits that claims 6-20 are non-obvious in over the cited prior art references, Jensen and Salmon.

With regard to claims 6, 7 and 12, Applicant respectfully submits that Jensen fails to teach or suggest a bag that comprises a tubular webbing material. This missing teaching is not supplemented by Salmon. For transport to occur at a fast speed, the water current passing through the bag will have to be regulated so the current is adapted to the swimming capacity of the fish. This is achieved by the use of the tubular webbing material.

Further, with regard to claim 12, the bag includes a tight-walled webbing material. The tight-walled material also allows transport of fish to occur successfully at a relatively high speed.

Additionally, an adjustable opening in both ends of the fish bag allows for regulation of the flow-through of water within the bag. Claim 7 recites, "each end of the tube there being arranged a second open netting equipped with purse lines for adjusting the flow-through of water in the device." Similarly, claim 14 recites, "at each end of the tubular bag there being arranged a netting equipped with a first and second purse line, said first purse line disposed at a transition between said netting and webbing material of said tubular bag and said second purse line disposed at an end of said netting, said purse lines being adjustable to adjust the flow-through of water in said device." Jensen fails to teach or suggest the element of purse-lines at each end of the tube as described above with regard to claims 1-5. Therefore, for at least these reasons claims 7 and 14 are non-obvious over the cited references. Further, the purse-lines are for adjusting the flow-through of water in the device, an element not taught or suggested by prior art.

The fish that remain inside the bag must at all times have ample and sufficient fresh and oxygen-rich water exchanged; otherwise the fish will die within a short time. This is achieved by having adjustable purse lines at both ends of the bag so that the current passes through the bag at the speed, which is suitable for the relevant fish species and type.

Further, claims 8 and 17 recite, "wherein several fish bags are coupled together through locking rings located at the site of the bag rings." Jensen and Salmon fail to teach or suggest such an element.

Claims 11 and 20 recite a fish netting around the fish bag, as does claim 5. Therefore, for at least the reasons recited above, with regard to claim 5, Applicant submits that claims 11 and 20 are non-obvious with regard to the cited references.

Claims 8-13 depend from claim 7 and claims 15-20 depend from claim 14. These claims should be allowed for at least the same reasons as their respective independent claims.

Conclusion

For at least the reasons submitted above, Applicant respectfully submits that claims 1-20 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231

Signed: Sally Azevedo
Typed Name: Sally Azevedo
Date: February 25, 2003

Respectfully submitted,

Gina McCarthy

Gina McCarthy

Reg. No. 42,986

P.O. Box 2-E

San Jose, CA 95109-0005

(408) 297-9733



-1-

Version with Markings to Show Changes Made

1. (twice amended) Device for storing and transporting live fish, comprising a fish bag being [netting] equipped at both ends with bag rings, and wherein at each end there being arranged a second netting with purse lines.

RECEIVED
MAR 12 2003
GROUP 3600